

By: Harris

S.B. No. 864

A BILL TO BE ENTITLED

AN ACT

relating to the qualifications and duties of a parenting coordinator in a suit affecting the parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 153.601(3), Family Code, is amended to read as follows:

(3) "Parenting coordinator" means an impartial third party who:

(A) regardless of the title by which the person is designated by the court, performs any function described by Section 153.606 in a suit; and

(B) is appointed under this subchapter by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues.

SECTION 2. Section 153.605, Family Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) In a suit affecting the parent-child relationship, the court may, on its own motion or on a motion or agreement of the parties, appoint a parenting coordinator [~~to assist the parties in resolving parenting issues~~]. A person may not be appointed to serve as parenting coordinator unless the person satisfies the minimum qualifications of Section 153.610.

(a-1) The court shall specify in the order appointing the

1 parenting coordinator whether the parenting coordinator serves on a
2 confidential or nonconfidential basis, as described by Section
3 153.606. If the order does not state whether the parenting
4 coordinator serves on a confidential or nonconfidential basis, the
5 parenting coordinator's service is on a confidential basis, unless,
6 before beginning the parenting coordination, each attorney for a
7 party and any party who does not have an attorney executes a written
8 waiver of confidentiality.

9 (b) The court may not appoint a parenting coordinator
10 unless, after notice and hearing, the court makes a specific
11 finding that:

12 (1) the case is a high-conflict case~~[+]~~ or
13 ~~[-]~~ there is good cause shown for the appointment of
14 a parenting coordinator and the appointment is in the best interest
15 of any minor child in the suit; and

16 (2) the person appointed has the minimum
17 qualifications required by Section 153.610, as documented by the
18 person.

19 SECTION 3. Subchapter K, Chapter 153, Family Code, is
20 amended by adding Section 153.6051 to read as follows:

21 Sec. 153.6051. PARENTING COORDINATOR: CONFLICTS OF
22 INTEREST AND BIAS. (a) A person who, before being appointed as
23 parenting coordinator in a suit, has a conflict of interest with, or
24 has previous knowledge of, a party or a child who is the subject of
25 the suit shall:

26 (1) disclose the conflict or previous knowledge to the
27 court, each attorney for a party, any attorney for a child, and any

1 party who does not have an attorney before accepting the
2 appointment; and

3 (2) decline appointment in the suit unless the parties
4 and the child's attorney, if any, agree in writing to the person's
5 appointment as parenting coordinator.

6 (b) A parenting coordinator who discovers after being
7 appointed in a suit that the parenting coordinator has a conflict of
8 interest with, or has previous knowledge of, a party or a child who
9 is the subject of the suit shall:

10 (1) immediately disclose the conflict or previous
11 knowledge to the court, each attorney for a party, any attorney for
12 a child, and any party who does not have an attorney; and

13 (2) withdraw from the suit unless the parties and the
14 child's attorney, if any, agree in writing to the person's
15 continuation as parenting coordinator.

16 (c) A parenting coordinator, before appointment in a suit,
17 must disclose to the court, each attorney for a party, any attorney
18 for a child who is the subject of the suit, and any party who does
19 not have an attorney, the existence of any:

20 (1) pecuniary relationship with an attorney, party, or
21 child in the suit;

22 (2) relationship of confidence or trust with an
23 attorney, party, or child in the suit; and

24 (3) other information regarding any relationship with
25 an attorney, party, or child in the suit that might reasonably
26 affect the ability of the person to act impartially during the
27 person's service as parenting coordinator.

1 (d) A person who makes a disclosure required by Subsection
2 (c)(1) shall decline appointment as parenting coordinator unless
3 the parties and the child's attorney, if any, agree in writing to
4 the person's service as parenting coordinator in the suit.

5 (e) A parenting coordinator may not serve in any other
6 professional capacity at any other time with any person who is a
7 party to, or the subject of, the suit in which the person serves as
8 parenting coordinator, or with any member of the family of a party
9 or subject. A person who, before appointment as a parenting
10 coordinator in a suit, served in any other professional capacity
11 with a person who is a party to, or subject of, the suit, or with any
12 member of the family of a party or subject, may not serve as
13 parenting coordinator in a suit involving any family member who is a
14 party to or subject of the suit. This subsection does not apply to a
15 person whose only other service in a professional capacity with a
16 family or any member of a family that is a party to or the subject of
17 a suit to which this section applies is as a teacher of co-parenting
18 skills in a class conducted in a group setting. For purposes of
19 this subsection, "family" has the meaning assigned by Section
20 71.003.

21 (f) A parenting coordinator may not serve in both a
22 confidential and nonconfidential capacity in the same case.

23 (g) A parenting coordinator shall promptly and
24 simultaneously disclose to each party's attorney, any attorney for
25 a child who is a subject of the suit, and any party who does not have
26 an attorney the existence and substance of any communication
27 between the parenting coordinator and another person, including a

1 party, a party's attorney, a child who is the subject of the suit,
2 and any attorney for a child who is the subject of the suit, if the
3 communication occurred outside of a parent coordinating session and
4 involved the substance of parenting coordination.

5 SECTION 4. Section 153.606, Family Code, is amended by
6 amending Subsections (a), (c), and (d) and adding Subsections (a-1)
7 and (a-2) to read as follows:

8 (a) The court shall specify the ~~[The]~~ duties of a parenting
9 coordinator ~~[must be specified]~~ in the order appointing the
10 ~~[parenting]~~ coordinator.

11 (a-1) The duties of a ~~[the]~~ parenting coordinator appointed
12 on a confidential basis that may be specified in the order
13 appointing the coordinator are limited to matters that will aid the
14 parties in:

- 15 (1) identifying disputed issues;
- 16 (2) reducing misunderstandings;
- 17 (3) clarifying priorities;
- 18 (4) exploring possibilities for problem solving;
- 19 (5) developing methods of collaboration in parenting;
- 20 (6) understanding parenting plans and reaching
21 agreements about parenting issues to be included in a parenting
22 plan; and
- 23 (7) complying with the court's order regarding
24 conservatorship or possession of and access to the child.

25 (a-2) A parenting coordinator appointed on a
26 nonconfidential basis may perform the duties described by
27 Subsection (a-1), if the duties are specified in the order

1 appointing the coordinator. In addition, if specified in the
2 order, a parenting coordinator appointed on a nonconfidential basis
3 may:

4 (1) assist the parties in implementing parenting
5 plans;

6 (2) provide the parties with problem solving, conflict
7 management, and parenting skills training;

8 (3) monitor compliance with court orders;

9 (4) provide recommendations to the parties, their
10 attorneys, if any, and the court regarding long-term parenting
11 arrangements if temporary orders regarding possession, access, or
12 conservatorship are in effect; and

13 (5) assist the parties in resolving disputes and
14 disagreements regarding parenting issues.

15 (c) The parenting coordinator may not modify any order,
16 judgment, or decree. [~~If a suit is pending, any agreement made by~~
17 ~~the parties with the assistance of the parenting coordinator must~~
18 ~~be reduced to writing, signed by the parties and their attorneys, if~~
19 ~~any, and filed with the court.~~]

20 (d) Meetings between the parenting coordinator and the
21 parties may be informal and are not required to follow any specific
22 procedures unless otherwise provided by this subchapter or by the
23 standards of practice of a license or certificate held by the
24 parenting coordinator.

25 SECTION 5. Section 153.607, Family Code, is amended to read
26 as follows:

27 Sec. 153.607. PRESUMPTION OF GOOD FAITH; REMOVAL OF

1 PARENTING COORDINATOR. (a) It is a rebuttal presumption that a
2 parenting coordinator is acting in good faith if the parenting
3 coordinator's services have been conducted as provided by this
4 subchapter and the standard of care applicable to the license or
5 certificate held by the parenting coordinator.

6 (a-1) Except as otherwise provided by this section, the
7 court may [~~shall reserve the right to~~] remove the parenting
8 coordinator in the court's discretion.

9 (b) The court shall remove a [~~the~~] parenting coordinator
10 appointed on a confidential basis:

11 (1) on the request of the parenting coordinator [~~and~~
12 ~~agreement of both parties~~]; [~~or~~]

13 (2) on the motion of a party; or

14 (3) if the parenting coordinator ceases to satisfy the
15 minimum qualifications required by Section 153.610.

16 (c) The court may remove a parenting coordinator appointed
17 on a nonconfidential basis:

18 (1) on the request and agreement of both parties;

19 (2) on the motion of a party, if good cause is shown;

20 (3) on the request of the parenting coordinator; or

21 (4) if the parenting coordinator ceases to satisfy the
22 minimum qualifications required by Section 153.610.

23 SECTION 6. Section 153.608, Family Code, is amended to read
24 as follows:

25 Sec. 153.608. REPORT OF PARENTING COORDINATOR. (a) A
26 parenting coordinator shall submit a written report to the court
27 and to the parties as often as ordered by the court.

1 (b) If the parenting coordinator is appointed on a
2 confidential basis, the coordinator shall limit the [The] report
3 [must be limited] to a statement of whether the parenting
4 coordination should continue. The report of a parenting
5 coordinator appointed on a nonconfidential basis may include a
6 recommendation described by Section 153.6081(d) and any other
7 information required by the court.

8 SECTION 7. Subchapter K, Chapter 153, Family Code, is
9 amended by adding Sections 153.6081 and 153.6082 to read as
10 follows:

11 Sec. 153.6081. AGREEMENTS AND RECOMMENDATIONS. (a) If the
12 parties have been ordered by the court to attempt to settle a
13 dispute with the assistance of a parenting coordinator and to reach
14 a proposed joint resolution regarding the dispute, the parenting
15 coordinator shall report the proposal of the parties in writing to
16 the parties, any attorneys for the parties, and any attorney for a
17 child that is the subject of the suit, in order for the proposal to
18 be drafted into a form that meets the requirements, as appropriate,
19 of:

20 (1) Rule 11, Texas Rules of Civil Procedure;

21 (2) a mediated settlement agreement described by
22 Section 153.0071;

23 (3) a collaborative law agreement described by Section
24 153.0072;

25 (4) a settlement agreement described by Section
26 154.071, Civil Practice and Remedies Code; or

27 (5) a proposed court order.

1 (b) The parenting coordinator may assist the parties in
2 negotiating a statement of intent regarding the proposal. A
3 statement of intent is not an agreement unless it is:

4 (1) executed or approved by the court, as applicable;
5 and

6 (2) prepared by the parties' attorneys, if any, in a
7 form that meets the requirements described by Subsection (a).

8 (c) A parenting coordinator may not draft a settlement
9 agreement described by Section 154.071, Civil Practice and Remedies
10 Code.

11 (d) If the parties have been ordered by the court to attempt
12 to settle a dispute with the assistance of a parenting coordinator
13 appointed on a nonconfidential basis and are unable to settle the
14 dispute, the parenting coordinator may make recommendations to the
15 parties and attorneys to implement or clarify provisions of an
16 existing court order that is consistent with the substantive intent
17 of the court order and in the best interest of the child. A
18 recommendation authorized by this subsection does not affect the
19 terms of an existing court order.

20 Sec. 153.6082. COMMUNICATIONS, RECORDKEEPING, AND
21 REPORTING. (a) Notwithstanding any rule, standard of care, or
22 privilege applicable to a license or certificate held by a
23 parenting coordinator, a communication made by a participant in
24 parenting coordination with a parenting coordinator appointed on a
25 nonconfidential basis is subject to disclosure and may be used in
26 any judicial or administrative proceeding, if otherwise
27 admissible. The parenting coordinator may be required to testify

1 in any proceeding relating to or arising from the matter in dispute,
2 including testimony on the basis for any recommendation made to the
3 parties.

4 (b) A parenting coordinator appointed on a nonconfidential
5 basis shall keep a detailed record regarding meetings and contacts
6 with the parties, attorneys, or other persons involved with the
7 suit.

8 (c) A person who participates in parenting coordination
9 with a parenting coordinator appointed on a nonconfidential basis
10 is not a patient as defined by Section 611.001, Health and Safety
11 Code, and no record created as part of the parenting coordination is
12 confidential.

13 (d) On request, records of parenting coordination with a
14 parenting coordinator appointed on a nonconfidential basis shall be
15 made available by the parenting coordinator to each attorney for a
16 party, any attorney for a child who is the subject of the suit, and
17 any party who does not have an attorney.

18 (e) A parenting coordinator appointed on a nonconfidential
19 basis shall keep parenting coordination records from the suit until
20 the seventh anniversary of the date the coordinator's services are
21 terminated, unless a different time for retention of the records is
22 established by a rule adopted by the agency that licenses or
23 certifies the parenting coordinator.

24 SECTION 8. Section 153.610, Family Code, is amended by
25 amending Subsections (a) and (b) and adding Subsection (b-1) to
26 read as follows:

27 (a) The court shall determine whether the [~~required~~]

1 qualifications of a proposed parenting coordinator satisfy the
2 requirements of this section. On request by a party, an attorney
3 for a party, or any attorney for a child who is the subject of the
4 suit, a person under consideration for appointment as a parenting
5 coordinator in the suit shall provide proof that the person
6 satisfies the minimum qualifications required by this section.

7 (b) A [~~, provided that a~~] parenting coordinator must [~~at~~
8 ~~least~~]:

9 (1) hold at least a bachelor's degree from an
10 accredited college or university [~~in counseling, education, family~~
11 ~~studies, psychology, or social work and, unless waived by the~~
12 ~~court, complete a parenting coordinator course of at least 16~~
13 ~~hours~~]; [~~or~~]

14 (2) hold a license to practice in this state as a
15 social worker, licensed professional counselor, licensed marriage
16 and family therapist, psychologist, or attorney; and

17 (3) have completed:

18 (A) at least 40 classroom hours of training in
19 dispute resolution techniques in a course conducted by an
20 alternative dispute resolution system or other dispute resolution
21 organization approved by the court making the appointment;

22 (B) at least 24 classroom hours of training in
23 the fields of family dynamics, child development, and family law;

24 (C) [hold a graduate degree in a mental health
25 profession, with an emphasis in family and children's issues.

26 [~~(b) In addition to the qualifications prescribed by~~
27 ~~Subsection (a), a parenting coordinator must complete] at least~~

1 eight hours of family violence dynamics training provided by a
2 family violence service provider; and

3 (D) at least 16 hours of training in the laws
4 governing parenting coordination and in parent coordination styles
5 and procedures.

6 (b-1) A person who is appointed to serve as a parenting
7 coordinator shall comply with the standard of care applicable to
8 the license or certificate held by the person in performing the
9 duties of parenting coordinator.

10 SECTION 9. Section 153.0071(g), Family Code is amended to
11 read as follows:

12 (g) The provisions for confidentiality of alternative
13 dispute resolution procedures under Chapter 154, Civil Practice and
14 Remedies Code, apply equally to the work of a parenting coordinator
15 appointed on a confidential basis under Section 153.605 [~~as~~
16 ~~defined by Section 153.601,~~] and to the parties and any other person
17 who participates in that [~~the~~] parenting coordination. This
18 subsection does not affect the duty of a person to report abuse or
19 neglect under Section 261.101.

20 SECTION 10. (a) Not later than March 1, 2010, each state
21 agency listed in this subsection shall adopt rules establishing
22 parenting coordinator practice standards consistent with Section
23 153.610(b), Family Code, as amended by this Act, applicable to the
24 agency's license holders who wish to serve as parenting
25 coordinators. The practice standards must be at least as detailed
26 and rigorous as those contained in the report entitled "Guidelines
27 for Parenting Coordination" developed by the Association of Family

1 and Conciliation Courts Task Force on Parenting Coordination, dated
2 May 2005. The practice standards required by this section must
3 contain a minimum number of hours of classroom training in the
4 practice standards that must be completed by each license holder
5 who wishes to be eligible to serve as a parenting coordinator. This
6 subsection applies to the:

- 7 (1) State Bar of Texas;
- 8 (2) Texas State Board of Examiners of Psychologists;
- 9 (3) Texas State Board of Examiners of Marriage and
10 Family Therapists;
- 11 (4) Texas State Board of Examiners of Professional
12 Counselors; and
- 13 (5) Texas State Board of Social Worker Examiners.

14 (b) Notwithstanding Section 153.610(b), Family Code, as
15 amended by this Act, after September 1, 2010, a person who holds a
16 license from a state agency listed in Subsection (a) of this section
17 may not be appointed to serve as a parenting coordinator if:

18 (1) the agency has not adopted parenting coordinator
19 practice standards as required by Subsection (a) of this section;
20 or

21 (2) the license holder has not completed the minimum
22 number of hours of classroom training contained in the practice
23 standards.

24 (c) Notwithstanding Section 153.610(b)(2), Family Code, as
25 amended by this Act, a person who holds certification as a family
26 life educator from the National Council on Family Relations, may
27 serve as a parenting coordinator if, on the effective date of this

1 Act, the person:

2 (1) satisfied the qualifications of a parenting
3 coordinator in effect immediately before the effective date of this
4 Act; and

5 (2) has completed at least 16 classroom hours of
6 training in parenting coordinator practice standards that satisfy
7 the requirements of Subsection (a) of this section.

8 (d) Effective September 1, 2011, a person to whom Subsection
9 (c) of this section applies may not serve as a parenting coordinator
10 unless:

11 (1) as of that date the person holds a license or
12 certificate from a state agency with the authority to adopt and
13 enforce parenting coordinator practice standards with respect to
14 that license or certificate;

15 (2) the agency has adopted parenting coordinator
16 practice standards applicable to the person's license or
17 certificate that comply with the requirements for practice
18 standards described in Subsection (a) of this section; and

19 (3) the person has completed the minimum number of
20 hours of classroom training contained in the practice standards.

21 (e) Notwithstanding any other provision of this section or
22 any other law, a person who satisfies the qualifications to be a
23 parenting coordinator in effect immediately before the effective
24 date of this Act is not required to comply with the requirements
25 imposed by Section 153.610(b), Family Code, as amended by this Act,
26 until September 1, 2010, to be qualified to serve as a parenting
27 coordinator under Chapter 153, Family Code, as amended by this Act,

1 and the former law is continued in effect for that purpose.

2 SECTION 11. This Act takes effect September 1, 2009.